

Philippine governance: merging politics and crime

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Philippine Governance: Merging Politics and Crime

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Summary

The Philippines are a “gambling republic” in which politicians hold “power without virtue”, dominating by means of “capital, coercion and crime”. Individual power holders are “bosses”, acting in a “mafia-style” and employing “guns, goons and gold” in order to gain, uphold or enhance their power positions. Whereas the politicians at times make use of vigilantes, private armies, death squads and hired contract-killers, the state itself resorts to “state terror” to counter the leftist threat posed by the Communist New People’s Army and its various offshoots, as a sideline killing hundreds of people in extralegal executions. Local power remains “in the family”, and national power is diffused in an “anarchy of families”. All of these characterizations of Philippine politics put in quotation marks are taken out of scientific books, articles and statements of Philippine state officials and politicians.

While Philippine politics certainly is much more than captured in these characterizations, this report takes them as a starting point to analyze Philippine politics as if it was crime, or as “criminalized governance” (Briscoe 2008: 4), arguing that criminal activities do not only connect to politics in an erratic and unsystematic way, but seem to be a durable and integral part of politics from the local to the national levels.

The model for the analysis is provided by organized crime, which is characterized by the twin goals of wealth and power and bases its activities on two fundamental norms: that violence is no sole prerogative of a relatively autonomous state, but can be used as a private instrument of social control and empowerment by the organization (in political contexts read: ruling class) subject only to considerations of prudence and that the boundary between legal and illegal, licit and illicit behavior is of no importance, except for the calculation of costs and benefits accrued to alternative strategies of action.

Following Tilly, who likened state-making to organized crime, a conceptual basis for understanding politics as crime is given. The fundamental traits of one specific manifestation of criminal governance – the traditional Mafia – is presented with respect to structure, normative environment and behavior, as this specific form can provide the “flesh and skin” to the “skeleton” of rather abstract characterizations of organized crime, which try to delimit the universal phenomenon as such. Even more important, many of the patterns presented with respect to the traditional Mafia have a decidedly familiar ring to the Philippine case.

The major part of this report is dedicated to the description and analysis of two major aspects of Philippine politics which illustrate the appropriateness of the comparison to the traditional Mafia: the private use of violence for particularistic ends of personal domination and the systematic involvement of Philippine politicians and administrators in illicit business ventures – mostly in the form of rent-seeking, analyzed by using the example of the illegal game of chance *Jueteng*. In addition a short analysis of the policy of peace pacts, with which contending politicians try to minimize the violent fall-out of political competition, is given, because as this very policy paradoxically underscores the right to self-help in the political sphere.

The conclusion focuses on recommendations for reform aiming at the strengthening and restructuring of the Philippine state and political system.

A first set asks for a significantly strengthened insulation of the law enforcement authorities, so that they can no longer be instrumentalized or pressured by politicians. This ought to be complemented by significant strengthening of effectiveness through training and qualification, recruitment of additional personnel and abolition of auxiliary organizations that not only have a long history but also an equally long bad track record with respect to human rights violations. In addition, the gun-policy ought to be significantly tightened. When, as currently a national gun-ban can be enforced in times of heightened political competition during the election periods, this should likewise be feasible during normal times. Over time such a change in policy would render guns less natural accessories in the Philippine public.

Specific measures undermining the patronal position of Philippine politicians and institutionalizing politics would be the abolishment of the pork-barrel funds, which currently seem to be much used not only to further development in the politicians' constituencies, but to project the image of the benevolent patron and thereby establish long-term particularistic and personalistic dependency relations, which stabilize patron – client bonds. This could be complemented by a significant strengthening of the Commission on Audit, so that malfeasance and corruption do no longer go unpunished.

Finally, two long-term strategies aiming at a reframing of institutional incentives for politicians are proposed: Firstly, a change of the electoral system towards a system of proportional representation, as this holds the potential of uncoupling political office from local dominance. Secondly, political parties should be publicly financed, so that office-holders would no longer need to plunder public office to recoup their outlays and “reimburse” their benefactors through preferential treatment.

The analysis of the Philippine politics illustrates that a deeper look at the crime-politics nexus is worthwhile, not only in failed or nearly failed states, but also in rather durable and not endangered ones. It also illustrates, that in order to analyze criminality in politics, we need not necessarily look for criminal organizations aiming to take over or control the state from the outside through co-opted or bribed politicians, but might better take into account the possibility, that the political class itself exemplifies a significant number of characteristics in outlook and behavior, which make them resemble criminal actors.

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1. Introduction

Textbook titles on Philippine politics show a very common trend: The Philippines are an “unholy nation” in which gambling is so central that it might likewise be called a “gambling republic”. Politicians hold “power without virtue”, this power being based not on free and fair elections, but on “capital, coercion and crime” or “guns, goons and gold”. Especially at the local level the politician has to have the qualities of a “boss”, in order to stay in power so that eventually he can pass it on to succeeding generations of the family. If successful, political power will become a family affair, because local offices and strategic connections to the national level are “all in the Family”. And as this is not simply a local pattern, happening here and there, but a predominant one, the whole system might be likened to “an anarchy of families”, the underlying pattern tagged “bossism”. Under scrutiny these local and national “Rulemakers” show themselves to be a “modern Principalia,” an oligarchy perfectly adapted to the changed conditions of modernity, who succeeded in capturing state power, but also commanding significant private firepower underwriting its personal rule by “state terror” if necessary. Economically those modern oligarchs rely on “booty capitalism”, sometimes also designated as “crony capitalism” whereby “patrimony” perpetuates itself economically. All of these, however, are no new phenomena, but have been there forever in this “changeless land”.¹

But it is not only in textbooks and newspapers that such characteristics are exposed. Even high ranking representatives of the state like the chief of the Philippine National Police (PNP), Jesus Verzosa (2010), openly speak about warlords and private or partisan armed groups (PAG) and retired Army Generals give lectures on “the Anatomy of Warlordism in the Philippines” (Echeverria 2010).

These descriptions are not counterweighted by positive statements. In this report it is argued that it might make sense to take the tags, which are used to characterize Philippine politics, absolutely seriously. Familism, bossism, coercion, violence, corruption, booty capitalism, gambling empires, and private armed groups – this actually resembles much more traditional or semi-traditional organized crime than what is commonly understood as politics.

This report analyzes Philippine politics under a perspective of crime, because criminal activities in this country do not connect to politics only in an erratic and unsystematic way, but seem to be a durable and integral part of politics from the local to the national level. The concepts of “criminalized governance” (Briscoe 2008: 4) or Mafia-style politics are used here in a “sensitizing” way, that is, they aim at giving “the user a general sense of

1 The citations in this paragraph are all taken from titles of scientific literature on the Philippines (see: Azurin 2008, Coronel 1996, Coronel et al. 2004, Hutchcroft 1998, Ibon Foundation 2005, Institute for Popular Democracy 1992, Lacaba 1995, Linantud 1998, McCoy 1994, Nery 2003, Sidel 1999, Simbulan 2005, Timberman 1991).

reference and guidance in approaching empirical instances” (Blumer 1954: 7). The use of these rather unfamiliar frames is based on the observation of a certain phenomenological sameness or similarity between the environmental embeddedness, internal structure, patterns of action and cultural background of the traditional Italian Mafia and Philippine politics. However, this report does not want to do away with more orthodox definitions of politics and governance. It only aims at complementing them with an alternative view that strongly focuses on the criminal representation of politics.

In a general sense organized crime is characterized by the goals of “money and power whose procurement is not limited by legal or moral concerns”, it has a “vertical power structure” and limited membership, it constitutes a subculture, is governed by rules and regulations and perpetuates itself through time; “violence is a readily available and routinely accepted resource” and the organization “strives for hegemony over a particular geographic area” and/or a particular industry (Abadinsky 2010: 2-5).² This definition already shows that politics (power) need not, but can be one activity of criminal organizations.

However, criminal organization can take numerous forms. For our case especially interesting is the classical “Italian model” of the Mafia in its various guises. Employing the narrower Mafia model provides us not only with the “bones” of the phenomenon, but clothes them with flesh and skin of specific historical developments, actors, social practices and cultural background, and thereby translates the abstract concept into a historical representation, which can then be used in order to look for similarities with Philippine politics. By making use of such an enculturated model, it becomes visible that Mafia, has always been much more than crime, and a significant part of that extra-dimension has been political and governance related. This governance function of the Mafia provides the basis for analysing Philippine politics as if it were organized crime. So, while the one is crime and governance, the other is governance and crime.

I am well aware, that Philippine politics and governance are not identical to crime, as there is a large number of well-meaning politicians and public servants highly committed to good governance, democracy, rule-of-law and development and even the much criticized traditional politicians (so-called *trapos*, for traditional politicians) to a certain extent look after their clients’ welfare and try to bring betterment, to guarantee law and order in their respective bailiwicks.

The report is structured as follows: First the relationship between politics, state and crime is discussed. Building upon Tilly’s conceptualisation of state-making as organized crime and a short presentation of the traditional Italian Mafia, viewed as a social configuration that can to a certain extent be alluded to as “illegal state” (Paoli 2003: 130),

2 Quite a number of these core characteristics are contentious. Whereas for example there is the common assumption of hierarchy, newer research argues, that the level of hierarchization is dependent on the contestability of the industry in which the organization specializes (Leeson/Rogers no year given)

a model of Philippine politics Mafia-style is developed. Section three analyzes the horizontal and vertical uses of private violence employed or commissioned by politicians, the main focus being on horizontal intra-elite violence, which always lurks in the background in escalating political conflicts. Vertical “repressive” violence targeting activists, unionists, unruly tenants, urban poor, criminals or journalists and judges will only briefly be touched.³ Section four focuses on one strategy for diminishing horizontal “intra-elite” violence, the so called peace pacts, which, however, acknowledge exactly this autonomous capacity for violence it purports to circumscribe. Section five gives an example for the systematic enmeshment of politicians in illegal business (gambling), representing *pari passu* the huge array of illegal or semi-legal business ventures of Philippine politicians. The last chapter provides a discussion of concepts and presents options for institutional reform that could help in decriminalizing Philippine politics.

2. Politics, the state and crime

“To combat and destroy the kingdom of the mafia it is necessary – it is indispensable – that the government cease to be the king of the mafia!” (Napoelone Colajanni 1900, cited in Fentress 2000: 246).

If politics is to be analyzed according to models that are normally applied to organized crime of one or another variant only, then there must be some common ground, from which such a shift can proceed. This common ground will be established in the following pages – arguing that state-making qualifies as an effort to assert a protection racket on a given territory and that such rackets, even if they do not totally monopolize violence in a given territory, actually assume tasks normally seen to be at the heart of statehood and that therefore the two can easily merge under concrete historical circumstances – as for example in the Philippines.

2.1 State-making as organized crime

Thinking about politics and crime takes us back to Charles Tilly’s argument about war- and state-making, both of which, he states, “qualify as our largest examples of organized crime” (Tilly 1985: 169). State-making in Tilly’s understanding is a process through which one of several competing powers succeeds in establishing a territorially defined monopoly on the use of force, monopolizing the right to tax a population in exchange for the provision of protection and being accepted as an equal by other powers, who dominate other territories in similar ways. One necessary condition of success is that competitors are eliminated in one’s “own” territory. In Europe this process centred on the

3 For a detailed analysis of these types of violence see Kreuzer 2007, Kreuzer 2009.

“demilitarisation of the great lords” (Tilly 1985: 174) which meant the destruction of their autonomous capabilities to project violence and to change their practices of violent conflict resolution. The early state-builders also had to convert the corresponding cultural codes of honour and duelling into cultural taboos. Only if successful in all of these tasks, could the state-builder eventually claim a monopoly on legitimate force.

However, in quite a number of world regions, states are still in the making. Even though the Philippines has a rather long history of modern statehood, I argue, that in this country, as in many others, neither of these crucial tasks of state-building have been fully accomplished. We still encounter “great lords” that command “personal bands of armed retainers” and resort to violence in order to settle disputes amongst themselves and control those below them. While there are no agents of violence competing on a national scale with “the state”, there is a huge number of regions, which are either characterized by private local monopolies, which are contested amongst the local “barons” or hybrid regimes in which state and private force compete for supremacy. Those semi-autonomous specialists of violence and protection dominating the political realm are variously denominated as political families, strongmen, bosses and warlords. The practice of private violence is culturally tabooed on a superficial level at best and perpetuated from generation to generation to the very present.

2.2 Criminalized governance, parallel state, para-politics and other conceptual innovations

Even though Tilly with his article pointed out a broadly neglected perspective on political action, there were hardly any follow-ups that concentrated on the interface of crime and politics by giving priority to or at least equal status to the “criminal lens”.

One of the few exceptions is Briscoe’s study of parallel states (2008), in which he takes note of the multitude of clandestine or hidden powers which are situated “in a large domain of social violence, stretching between the explicit state backing of the use of force [...] and the purely criminal, non-state use of violence” (Briscoe 2008: 3). Irrespective of organizational or cultural formation, clandestine types of state-sponsored or tolerated violence result in a criminalization of the state or a comprehensive political criminal nexus, which, depending on the type, can be described as parallel state, corrupt state, mafia state, or warlordism (Briscoe 2008: 3-6) – all four with significant overlap. Criminalized governance is a common feature for all of these four types. The mafia-state in Briscoe’s understanding is characterized by a symbiosis of crime and government or a criminal takeover of the state.

A conceptual alternative focussing on the same phenomenon of extralegal governance could be para-politics, which departs from the assumption, that, “crime [is, P.K.] a continuation of the state by other means” (Wilson 2009: 29). The central focus of this research is the duplicity of politics, which always includes illegal and clandestine action in order to uphold political domination. Structurally, para-politics translates into the notion that states fragment into legal and illegal, overt and covert, cooperating and competing

“sub-statist entities that, under the appropriate local conditions, have been capable of serving as the bearer of a divisible sovereignty. Some of these entities originate from within the state apparatus; others began as their opponents. In the end, however, they may become states, quasi-states or ‘shadow states’ in themselves, exerting functions of governance even if devoid of the formal signs of the state. This is termed ‘shadow governance’, the acquisition of the functions of governmentality by sub-statist groups or structures by means both judicial and extra-judicial” (Wilson 2009: 29).

The hallmark of this dual state is its being legal and extra-legal at the same time, making the extra-legal activities integral parts of state-action (Wilson 2009, 30, Cribb 2009: 1). Conceptual advances in this vein are characterized by a focus on the aspects of domination, power and “the dark side of the state” to take an alteration of a famous title by Michael Mann.

Mafia-state, parallel state, dual-state, shadow state and para-politics, these conceptual inventions share one common aim: to point to the convergence of crime and politics, to the criminalization of government and governance, which tends to remain invisible in more orthodox analyzes of political systems and processes, which, however, can probably distort the working logic of a political system in a more or less comprehensive way. A Mafia-style politics would then be one specific manifestation of para-politics. It is especially illuminating, as it can provide a significant amount of cultural and structural “flesh” that fits the Philippine case quite well.

The following pages take the analogy to the Mafia seriously, as they aim at a characterization of the (traditional) Mafia that allows us to understand it as a concrete historically situated and enculturated crimino-political phenomenon. This characterization aims at capturing the crucial traits of the Mafia and its environment while remaining on a sufficiently abstract level, so that the analogy to and comparison with Philippine politics remains possible.

2.3 Defining and describing criminal governance – mafia style

In the second half of the 19th century the Mafia grew out of traditional Patron-client bonds, displaying a pronounced code of honor. Being kinship based, the Mafia can be described as a segmentary society in which the various segments (families/clans) characterized by structural similarity and relative autonomy co-operate and compete with each other. Families/clans are not only of similar type, but in principle also of similar rank. As such, they enjoy similar comprehensive rights and duties and are holistic entities encompassing the social, cultural and political sphere (Paoli 2001: 159). Similar to the state as conceived by Tilly, they derive their legitimacy from the recognition of all structurally homologous groups, dependent on their proven control over a certain territory (Paoli 2003: 52). Like states recognize each other as similar phenomena, so do local Mafia groups (cosca or cosche). Contrary to public perception the segments, i.e. the cosche, are rather small, mostly not encompassing more than a few dozen men (Leeson/Rogers no year given: 14).

They develop and survive in an environment which is characterized by low levels of generalized trust, which, however, is substituted by specific forms of personalized trust and extended systems of instrumental friendship. With respect to business, the Mafia traditionally occupied the role of a broker, slowly turning to legal and illegal business as their mainstay, advancing and safeguarding their interests by penetrating politics and state administration to such an extent, that in some localities politics becomes a kind of subsystem to the broader based mafia. Historically in Sicily

“the state either willingly or unwillingly, although covertly, accepted and came to terms with such informal structures. The term mafia designates both these informal groupings and the connivance as such. It is only analytically that we can speak of mafia as a political structure. Pervading both the state and the village, it has, so to speak, its feet in each structure thus overarching both. Mafia is not an appendix of Sicilian society, but rather its very backbone” (Blok 1969: 104).

Already in the early decades of the Mafia,⁴ the second half of the 19th century we encounter

“a general connection between revolution, politics, and the mafia [...] . What brought the Mafia and the politicians together was the fact that they were all in the business of controlling people. [...] Thus, as different as revolution, politics, and crime may have been in theory, in Sicily the three seemed to mesh together quite nicely. [...] [The Mafia; P.K.] emerged [...] as a semiautonomous form of political control alternative to the legitimate control of the new Italian state” (Fentress 2000: 149-151).

After the Allied landing on Sicily in 1943 the Mafia, which had been weakened during the fascist era, became “the operative arm of the allied military government (AMGOT)” (Orlando 2007: 39; transl. P.K.). This and the strategic decision of the Mafia bosses to support the Democrazia Cristiana (DC) allowed them to establish a comprehensive “mafia-like political system of domination” (Orlando 2007: 39, transl. P.K.). In return the DC provided the protection on the national level and allowed the Mafia to enter the political system on the local and regional level – normally under the guise of the DC. Filippo Sabetti, in an excellent study on the Vilalba-Mafia points to the “growing fusion of the outlaw regime [the local “Mafia-government”; P.K.] with the renascent Christian Democracy” (Sabetti, 2002: 127). Not only in the late 19th or early 20th century, but likewise in the early decades after the Second World War, the Mafia cannot simply be conceived of as a criminal organization, but must be understood as a multidimensional phenomenon, which integrated a political, economic, criminal and social dimension.⁵ Such a perspective “transforms into a variable what is often viewed as a constant: the emergence of mafia groups as illicit, criminal enterprises” (Sabetti 2002: xix).

4 For the development of the Mafia in Sicily see Sabetti 2002, Catanzaro 1985, Blok 1969, Hess, 1988, Paoli 2003.

5 It is interesting to know for example, that up to 1984 in Sicily the Mafia doubled as tax-collector for the Italian state. Up to this year tax-collection was farmed out to a private firm owned by the Salvo cousins Ignazio and Nino, who “were legally entitled to a commission of up to 10 percent of the taxes they collected” (Gambetta 1998: 163).

At the core of a mafia-kinship-system are one or two biological families which extend outward along networks of artificial kinship systems. In order to grow, the kinship pattern is extended well beyond its natural limits. Crucial are godparent relationships (Catanzaro 1985: 38). Being kinship groups, the traditional mafia organizations are also highly localized. The foundation of their survival is a dominant position over a well defined territory.

Directly connected to the concept of kinship is instrumental friendship, which is based on the patron-client type of voluntary exchange of favors, instrumentalizing the norms of reciprocity in order to strengthen bonds of trust in a low-trust environment. In this context friendship “becomes an instrument for attaining goals outside the friendship itself.” Its essence “lies in the possibility of reciprocity in the exchange of resources, either one’s own or acquired; in the potential continuity of such exchange; and, finally, in the largely open nature of the relationship” (Catanzaro 1985: 38).

These various patterns go together in an integrated approach towards upholding local control. Mafia cosche as a general rule try to minimize the actual use of physical violence for the purpose of social control. Even though the ability to use violence is a core feature and “generalized ingredient of Mafioso behavior” (Gambetta 2000: 168-169), everyday control is normally upheld through the bonds of natural and artificial kinship. Within and beyond this circle control is upheld by way of dispensing favors and thereby earning debts of loyalty. As the Mafiosi gives benefits without asking for specific returns, the very “vagueness of the repayment is translated into a perpetual debt of proofs of moral obligation that is, of symbols and pledges of loyalty” (Catanzaro 1985: 46, see also Gambetta 2000: 170).

This capacity to dispense favors is crucial for the continued domination of the Mafia and has to be nourished by economic activities. Historically mafia organizations thrived on siphoning off various types of economic rents, they extracted by virtue of the debts of loyalty, their control over local political positions and/or connection to party officials and their capability at employing violence. It would be wrong to connect the Mafia with illegal activities only, as many of their activities were perfectly legal. However, being “Mafia” obviously helped in the legal business, where Mafia entrepreneurs could rely on their reputation and, if necessary, selectively use “mafia methods”. Additionally the Mafia entrepreneurs dominated “in the local community, thanks to a strong control – in some cases a monopoly – of the labour market” (Paoli 1994: 224).

The normative foundation of this practice of business and social control is a negation of the difference between legal and illegal behavior. The primacy of the state-focussed rule of law principle is substituted by an alternative principle according to which the informal seemingly tradition-bound cultural codes, as transmitted in and through the mafia, reign supreme and demand unconditional loyalty. For all practical purposes, the traditional Mafia groups governed their territories by providing crucial public goods which characterize government: security, law and public order. And for most of the time, these activities, while technically illegal, were not necessarily deemed illicit on the part of the local population.

It certainly helped that from the outset of the development of the mafia, some of its representatives entered the state as local politician or administrator. In the mid 1870s for example in Monreale, one small city in the hinterland of Palermo, “six of the major public security officials [...] were noted Mafiosi. This included the commander of the rural guards, the commander of the suburban guards, and four captains of the National Guard” (Sabetti 2002: 201). For the Mafia, it especially paid to secure mayoral positions, because at that time they thereby could get control over the local police, whose members were municipal employees. Not seldom whoever was in power in a municipality “would not hesitate to use the police to despoil their local enemies” (Fentress 2000: 164).

Parallel to the conquest of the local state, the Mafia later developed fully blown “outlaw regimes” (Sabetti 2002) at the local level that “had all the characteristics of a formal system of government” consisting of a council of chiefs and a military society, the members of the latter imposing sanctions and safeguarding public order.⁶ The council of chiefs adjudicated conflicts according to locally accepted norms and was responsible for developing new norms if circumstances required (Sabetti 2002: 113-115). The Councils’ legitimacy was quite often underwritten by the presence of the local priests. Many of these “outlaw regimes”, insofar as they successfully referred to locally held codes of conduct and norms “enjoyed the support of many, if not most, villagers, who stood to profit from it and did not regard state laws as the final determinant of what was criminal or illegal” (Sabetti 2002: xxi).

In order to uphold his local legitimacy the Mafia boss had to pose as an altruist, a “profitable altruist”, someone who by helping others in the community is also able to help himself (Sabetti 2002: 96ff). This limited the options for repression and exploitation open to the local Mafia (Sabetti 2002: 127) and cognitively transformed the Mafia-boss into a more or less benevolent patron.

It is important to realize that the traditional Mafia was “not a corporate social unit” and can only partially be understood as a kind of criminal organization. More importantly Mafia and Mafiosi “denote actual behavior: claiming and maintaining resources (land, employment, political support, and so on) through violence while conniving with formal authority.” Insofar Mafia should be interpreted as a peculiar social formation which emerged out of the interaction of a weak and mostly absent modern state and a semi-feudal local order (Blok 1969: 104), at the same time insulating this order from the ideology and practice of the modern nation state and connecting and integrating it into the overall framework of statism through its specific mode of governance. Fentress emphasizes, that the traditional Mafia “was less an economic system in itself than a form of political dominance” (Fentress 2000: 163). Similarly Hess argues that “Mafia is a power structure” (2009: 165). In order to be successful it had to “monopolise illegal violence [...]

6 For a detailed description of the authority patterns and functioning of such outlaw regimes see Sabetti 2002: 104-118).

and to rule a territory” (Hess 2009: 165). Paoli supporting this interpretation argues that despite all its economic activities, the Mafia actually aims at “political dominion”, meaning the exercise of “sovereign control over the people in their communities” (Paoli 2004: 24; see also Paoli 2001, 2003, 2007).

2.4 Philippine politics as mafia-style behavior

Alfred McCoy gives a clear-cut analysis of Philippine politics positing a systemic integration of legal and illegal, private and public actors utilizing legal and illegal means for upholding social control and being engaged in licit as well as illicit business as well:

“The Republic has deputised a panoply of parastatal elements – bandits, warlords, smugglers, gambling bosses, militia chiefs and rebel commanders. Though many are at best quasi-legal and some are outright outlaws, these fragments of the state are not mere aberrations but are instead integral facets of an administration whose sum, in fusion with constitutional elements, defines the Philippine polity” (McCoy 2009a: 233).

Those manifold fragments are granted a huge array “of informal immunities that inevitably shape the character of the country’s politics, fostering an array of nonstate actors and localized systems of social control” (McCoy 2009b: 49). Philippine “mafia-style” politics (Sidel 1999, Sidel/Hedman 2000: 89) is based on two fundamental norms, guiding political practice – norms at the very heart of any form of organized crime: Violence is no sole prerogative of a relatively autonomous state, but can be used as a private instrument of social control and empowerment by any member of the ruling class subject only to considerations of prudence. Moreover, the boundary between legal and illegal is of no importance, except for the calculation of costs and benefits accrued to alternative strategies of action. For Philippine politics this means that the political elites on various political levels complement the legal use of coercion (via state security agencies and according to the law) with illegal violence. They also complement legal forms of political competition with illegal ones (from vote buying to the killing of contenders). Finally, they annul the functional differentiation characteristic for modern nation states and likewise the separation of powers, as they rely on the organizing principle of kinship whose members branch out into and complement each other as representatives of the family in different sectors (business, politics), public institutions (legislative, executive, judiciary, state administration), and levels of politics and economic engagement as well (local, provincial, national).

On the local level, Philippine politicians quite often succeed in establishing local monopolies with respect to public office, franchises, public contracts, discretionary funds, employment opportunities and the like. These local monopolies unite on a higher level into an oligopoly of multidimensional control by a ruling elite. Strong competition on the local level translates quite easily into violence. Violence is strongest in those regions and

sectors where “primitive accumulation” of resources is still the mainstay of the elite and/or families compete for power and monopolistic control.⁷

Similar to crime, the role of violence recedes with modernization of the organization and primitive accumulation gives way to sophisticated accumulation, that is accumulation which is based on the investment of capital. In more sophisticated environments and business contexts physical violence tends to prove to be less of a stabilizing and empowering, but more of a destabilizing and dysfunctional practice. The relative decrease of violent means is, however, not accompanied by a lessening of illegal practices. Irrespective of political level, acting illegally to achieve one’s aims is a perfectly normal pattern. It is argued in this report, that by and large in the Philippines politics and crime merge to a significant extent, the politician acting in a criminal fashion, the criminal branching out into politics either indirectly (strawman, corruption) or directly (becoming politician or getting members of the family elected). In the end, we find one integrated system in which politics and crime are indistinguishable.

3. The political elite as entrepreneurs in violence – from the local to the national level

“People die, but I don’t know if my bullets were the ones that killed them [...]. Each one has his own destiny. [...] I chose to lead this kind of life; I am ready for its consequences.” (Luis Chavit Singson, Provincial Governor Ilocos Sur, cited in Torres 2003: 42).

In the Philippines the state has been captured to a significant extent by a group quite similar to the mafia in social outlook, leadership style and readiness to employ violence. The types of violence employed fit quite neatly. Firstly, there is vertical violence against individuals and representatives of groups who dare to challenge the social order and status quo of domination. Secondly, there is horizontal violence amongst the various families competing for power.

I will first give a short overview over the genesis of politico-criminal violence in the Philippines, and then I will turn to their role in the context of intra-elite competition, followed by a short discussion of the role of private armed groups, before turning to an analysis of violence against contenders of the dominant order. Finally with the strong

⁷ Primitive accumulation harks back on theories of the development of capitalism through the differentiation of a capitalist and a propertyless proletarian class. Primitive accumulation is the external starting point which brings capitalism’s core, capital, into being. Marx was the first to point out, that this primitive or original accumulation rests not so much on diligence and hard work on the part of a small segment of the population but on resource extraction, plunder, enslavement and forcible eviction of the weaker ones. Through these processes rural producers were driven either from the countryside into the factories or degraded into landless agricultural laborers. Primitive accumulation, however, should not be interpreted only as a temporal phenomenon during the early stages of capitalism, but as “a continuous phenomenon within the capitalist mode of production” (De Angelis 2001: 1).

patron, a cultural model will be presented, which informs the everyday acceptance of privatized forms of political violence.

3.1 The genesis of Philippine political violence

Violent actors employed by local politicians, landlords or business-magnates have been an enduring phenomenon in the Philippines. The late 19th and early 20th century saw the development of a new social class, quite similar to the traditional Sicilian Mafia in the core regions of agricultural production of the Philippines. These men started out as overseers and armed guards of the local and mostly absent landlords, to become a class of entrepreneurs in violence and votes of their own. Their initially one-sided dependency on their landlords eventually changed into a complex and much more balanced relationship in which the two sides traded votes for pork-barrel funds and protection. The first generations of these overseers originated from the peasantry, but had a local reputation for toughness and were therefore seen as real or efficacious men (*magaling na lalaki*). On this basis they were then chosen by the landlords to protect their interests and “control and intimidate potential lower-class leaders” (Fegan 1994: 45). Overseers successfully upheld local order establishing a hierarchical and wide-spread network (Fegan 1994: 38). In order to get their way and protect their patron’s interest they used a “combination of force, terror, and bribery”. They not only amassed power, but eventually were able to turn power into local authority, either informally or formally through the *barangay*.⁸ Eventually these men became crucial mediators who settled local disputes, even homicides, outside the law, fixed local politics and helped the local population in a multitude of concerns. They perceived themselves as “men of honor” (citations: Fegan 1994: 39). These men turned into specific strata of power brokers at the local level, employing violence in order to achieve their aims.

Violence, however, was not the only illegal activity of these groups. Of similar importance were their activities as smugglers and local gambling-lords, who ran various types of illegal number games. The rents captured via these enterprises were then utilized to a significant degree to bribe underpaid officials and public servants (Fegan 1994: 37), thereby providing loyal clients downwardly and attentive patrons upwardly. All of this resulted in a regime of multi-dimensional local control by just one group, which annulled any constitutional or legal divisions of authority within their respective bailiwicks. Even though most of these local power-brokers remained at the lower rungs of Philippine

8 The *barangay*, formerly denoted *barrio* is the smallest administrative division in the Philippines, which is subdivided in about 42,000 *barangays*. Each *barangay* is led by a *barangay* captain and seven *barangay* councillors, all of which are elected every three years. The *barangay* also encompasses the lowest rung of the Philippine Justice system, which aims at mediating and conciliating disputes, so that the formal legal system is disburdened.

politics, a number of them made it to higher levels, representing an important avenue for social mobility.

Even though individual “boss-qualities” are crucial, they are not sufficient for success, as individual strength and reach have to be broadened and extended over time, a process which is inconceivable without a strong network. This network is built upon the basis of real or imagined kinship ties. As imagined families are the building blocks of the local as well as the superordinate levels of politics with the state-institutions as an empty shell, populated by bosses and political families, “Filipinos act as if the state is not an abstract set of anonymous functionaries but a loose alliance of individuals who have gained office by political favoritism and have their own individual interests, allies, and enemies. In that context, the populace looks to self-help and political negotiation as the only reliable sources of security and assistance” (Fegan 1994: 50). Leaders have to deliver protection and benefits from the superordinate political levels in order to prevent defection. Both of these tasks demand “that the leaders have a credible ability to use armed force” (Fegan 1994: 50).

3.2 Horizontal political violence from the barangay to the province

Political violence pervades the whole political system of the Philippines, most often on or below the municipal level but also upwards to the provincial level, when governors or congressmen secure their power with violent means.

An extreme contemporary example would be the Ampatuan clan under its leader Andal Ampatuan Sr. In the Muslim regions of the southern Philippine main island of Maguindanao this family rose to power through violence in the 1990s expanding this power through violence during the last decade. In the course of these developments the clan built-up a private army of between 2,000 and 3,000 men and probably killed several hundred people, who were in their way. One interview-partner, a Mindanaoan politician, in January 2010 characterized the clan and its leader in terms, which closely resemble descriptions of the most feared Mafia families and bosses:

“The first option always of the Ampatuan in their political strategies was killing. [...] That is the first option. [...] Lateron, [...] when they became richer, then they had more tools. Money, influence and the option to kill receded. But it's always been in the background. The option to kill was always there before. So that is why Ampatuans' thinking was killing. Because that has always been the default. That's how they projected themselves: You get in our way, we kill you. And for those in the lower strata the option was always killing. So killing came naturally. If you were not armed, you did not have your own clan to protect yourself, you were just an ordinary guy, then the option was always default, was killing” (Interview Manila 2010).

The leader of the clan, Andal Ampatuan senior, has a reputation as a ruthless politician. According to various sources, he even killed three of his relatives whom he perceived to be threats to his rise to the top position within the clan (Piñol 2009a; interview Manila, 9.2.2010). Manny Piñol, three time governor of North Cotabato province, adjacent to the core areas of the Ampatuan clan in Maguindanao, describes how Andal Ampatuan a few years ago offered him 5 Million pesos (~ 100,000 US\$) to find and hand over one person

that had dared to run for mayor against the will of the clan. He likewise talks about people “being placed in cement mixers before they were buried alive” (Piñol 2009a). For more than a decade the state did not react to the violence perpetrated by the Clan as the Ampatuan family was time and again able to deliver the necessary votes for the president and various senators to win their elections.

This hands-off policy changed only in the wake of the Maguindanao massacre of November 23, 2009. On this day a political rival of the Ampatuans wanted to deliver his certificate of candidacy for the position of provincial governor in the 2010 elections. However, being afraid of being assaulted he sent a number of female members of the family, believing that these would not be attacked. They were accompanied by 30 journalists. Upon reaching the town of Ampatuan, the convoy was stopped by up to 200 armed men, presumably under the leadership of the mayor, Andal Ampatuan Jr., who was the Ampatuan candidate for governor. What followed was a killings spree, which none of the members of the convoy survived.

More than the massacre itself, in which not only members of the Ampatuans’ private army, but also local police auxiliary forces and policemen took part, do its antecedents and aftermath illustrate the relative autonomy of family control over specific core territories.

Esmael Mangudadatu, mayor of the town of Buluan in Maguindanao, and long-time political ally of the Ampatuan-clan made public in early 2009 that he would run for governor of Maguindanao and thereby challenge the dominant family, who thought the position to be theirs. When he insisted on running, Gilberto Theodoro, then Secretary of National Defense, asked him to think again, as “the Ampatuans have the tendency to be violent”, adding according to the testimony of Mangudadatu that “I’m just concerned about your safety because your rivals have a violent streak.” Other high government representatives tried to dissuade Mangudadatu from running pointing out that he should be very careful (The Philippine Star 28.1.2010: 8). Theodoro’s and the others’ counsel show that the Philippine state did not try to enforce the rule of law and safeguard the contenders’ right to stand for election, but instead obviously accepted the alternative frame of reference, in which local powerholders are expected and accepted to resort to violence if their core interests are threatened. Putting it into a medieval or Mafia-context one Maguindanaoan interview partner argued that

“the national government was saying ‘Don’t run anymore, don’t run anymore’. Because that upsets the order, that they had set up. But they could not in an ostensibly democratic society with democratic space, they could not just tell him not to run. They were still behind Ampatuan, they knew that Ampatuan will crush him. But for Ampatuan the social practice was “You don’t challenge the lord”. So he took it very personally” (Interview Manila 2010).⁹

9 This respect for territorial jurisdiction is likewise a core segment of the Mafia-culture. So for example in an early report of 1900, the police chief of Palermo pointed out, that “among the canons of the mafia there is one regarding the respect for the territorial jurisdiction of other [cosche]. The infraction of this canon constitutes a personal insult” (cited in Fentress 2000: 177).

For the state the killing became a problem only because it exceeded by far the limits of accepted intra-elite violence, as not only the contender and a small number of his bodyguards were killed; but killed were his wife and several other female relatives together with 30 journalists. As one interviewee told the author in January 2010, if Ampatuan

“had just pressured or if he had done his killing underground as assassination, then it would be fine. Perfectly fine, it would be in a Renaissance context, a Machiavellian world. Right and that would be perfectly fine for the political class here” (Interview Manila 2010).

By killing and mutilating women and many journalists the “rules of engagement” governing local political competition had been broken, threatening an unlimited “war” amongst contending segments of the political elite. And it is here, that the state comes in, not enforcing the rule of law and punishing those overstepping the legal boundaries, but largely aiming at the mediation and facilitation of inter-family wars, if these threaten to spiral out of control.¹⁰

How careful the state actually is, is illustrated by the immediate aftermath of the Maguindanao massacre, when Secretary Jesus Dureza, the Presidential Assistant for Mindanao, arrived on site. After talking to the Mangudadatu family and convincing them not to take retaliatory action, he proceeded to the Ampatuan family. As he disclosed

“With my staff and without military escorts, except for one military officer, Col Macario as guide, I motored to the Ampatuan residence. [...] I entered the Ampatuan fenced premises and the patriarch Gov. Andal Ampatuan, Sr. was there waiting for me. [...] Armed followers were everywhere.”

With time ongoing Dureza became “worried that darkness would overtake my return trip [...] Many armed and uniformed men on the highway. One could not tell what group or unit.” After Andal Jr., the suspected leader of the attack, promised to cooperate, Dureza left for a nearby City for the night. After some further negotiation the family surrendered Andal Ampatuan Jr. voluntarily. When Dureza arrived by helicopter the next day to fetch the suspect, the helicopter’s “engines were not shut off as agreed in case a sudden exit manoeuvre was necessary” (all citations: Dureza 2009). On their way back with the suspect Andal Ampatuan Jr. the helicopter was shot at, the gunners on board retorting fire.

Dureza’s discomfort and dread are clearly visible in his account, which neatly fits the “state’s” action before the massacre: accepting local overlordship of certain families and negotiating with them for cooperation. On the territory controlled by the Ampatuan family Dureza was no more than a guest, who could only hope that the right to hospitality was not denied to him. Dureza’s reaction, put on record in his own writing, makes abundantly clear, that at least in certain regions “the state” is no undisputed superior

10 Whereas “the state” tried avert a major local war between the Ampatuan and the Mangudadatu-families by promising the latter swift state action and support in the elections, it stood back, when a few weeks after the massacre the bodyguards of Esmail Mangudadatu shot and killed an unarmed henchmen of the Ampatuans, who happened to run into them in a shopping-mall (see for example: Mindanews 2010).

force, but only one party to a bargaining process between competitors of near equal strength.

After eight months the trial of Andal Ampatuan Jr. is still in its initial phases. All other family members have in the meantime been largely exonerated from complicity, witnesses were killed or disappeared,¹¹ so chances are good that finally there will be an acquittal for lack of evidence – at the very least, the fallout of the massacre will be reduced to one member of the clan and insignificant followers. Even though the political position of the family has been weakened, they still provide several dozen local executives in control of their core region and are still the strongest political clan nationwide, if measured by number of political positions only.

Even though this case stands out in modern Philippine history other cases of violence abound, which do not make much headlines because they follow the pattern which is “perfectly fine for the political class”: the assassination of the competitor (with probably some “collateral damage” on the part of his bodyguards).

Official police data give 95 attacks on elective officials from June 2009 to early March 2010 with 102 victims of whom 65 were killed (Philippine Star 2010a). The first few months of the year 2009 (from Jan. 1 to May 20), when there was no upcoming election, brought 52 shooting incidents victimizing local elective officials, of which 30 resulted in one or more deaths (Inquirer.net 2009).¹² In most of these and similar cases it is rumored that members of the political elite on the local or provincial level employ either private armed groups, contract killers or members of the state security institutions. This applies to the police and Civilian Volunteer Organizations (CVO), over which the local executives have operational control, but also the Armed Forces of the Philippines. A knowledgeable person told the author that

“there are many instances when the local politicians can apply pressure on an officer, because most of our officers seek clearances from different government agencies [...] and a simple call from a local politician to another government official would already set some things in motion which could well affect the career or even the family of some officers”.

Asked in how far a local military commander could be of help to a local politician, the same person, argued that “It’s the three Gs to project themselves in power: goons, guns

11 In one case one self-confessed gunman was killed because he failed to secure government protection (GMANews.tv 2010). In other cases a close relative and two others connected to the family of two core witnesses were killed and the brother of one suspect-turned-witness was severely wounded after being shot multiple times (HRW 2010).

12 The victims are normally local officials, however, sometimes national politicians get killed too. So, for example, the Congressman for Abra, Luis Bersamin, whose killing in 2006 was ordered by the then Governor of the province, Vicente Valera and Wahab Akbar, representative for Basilan, whose killing in 2007 seems to have been ordered by his competitor Gerry Salapuddin. The Governor of Sulu, Sakur Tan escaped narrowly, when a bomb exploded next to him in early August 2010 at Zamboanga airport, killing the bomber and a bystander.

and gold. And we can provide two of these: the goons and the guns” (Interview Manila 2010).

3.3 Private armed groups

At any time in modern Philippine history, a large number of politicians employed the services of variously termed private armies, private or partisan armed groups (PAG), made private use of state security forces, hired contract killers or made use of prisoners. Already in the 1949 elections in Cavite, south of Manila, the local governor organized groups of armed men to coerce the local population to vote for him and his slate of candidates. “For this purpose the most notorious characters in the town were drafted as members of Special Police Force, which usually was under the command and control of the Chief of Police of the town” (House Electoral Tribunal Decision 1952, cited in Sidel 1999: 109). In 2001, more than 50 years later, the Philippine Daily Inquirer presented, what he supposed to be the work of similar PAGs during the election campaign of that year:

“As the elections draw near, the PAGs are expected to either harass their principals’ rivals or engage in criminal activities to raise campaign funds [...]. The activities include kidnapping-for-ransom, robbery-holdup, extortion and drug-trafficking. Police said, that [...] penal farm inmates were allegedly being “utilized” for illegal partisan operations. One of the more prominent names on the list [...] allegedly keeps a group of 15 members, four of whom had been linked to murder and homicide cases, who are armed with three Armalite rifles and 16 short firearms” (Philippine Daily Inquirer 19.3.2001: 1+18).

Compare this to the year 2010, when the Chief of the Philippine National Police, Jesus Verzosa, disclosed that politicians actually connive with prison personnel in organizing prisoners as private armies. As Verzosa explained: “The inmates are not only used as ‘hired goons’ by politicians to kill their rivals, they are also utilized in kidnapping activities and other criminal acts.”¹³

There have been various countings of private armed groups in the services of politicians. In 1971, probably the first ever “official” counting produced 80 so-called private armies, six of which were maintained by Senators, 37 by Congressmen and the rest by governors, mayors or relatives to powerful politicians (Philippines Free Press 14.11.1970, 1). The actual number of PAGs was probably much higher, as in 1970 a huge number of de facto private armies were legalized by registering them as security agencies. Within only 44 days, 315 new private security agencies were registered, the total number more than doubled from 192 to 507. Many of the newly registered ones were owned by relatives of political warlords (Tutay 1971).¹⁴ So it might be argued that these 315

¹³ Philippine Daily Inquirer 2010.

¹⁴ Then as now, the actual numbers probably are much higher, as many politicians and business firms employ members of state institutions like the police, the Civilian Volunteer Organization or special CAFGU units for private purposes. These, however, are not included in the various lists of private armed groups.

“security agencies” actually should be included in the number of private armies. A few years after the return to democracy in 1986 the official number stood “at 562 private armies with almost 24,000 men and 11,000 firearms (Echeverria 2010: 6). While the numbers officially went down to a few dozen armed groups in the following years, for the year 2001 around 100 private armies are reported which were said to be responsible for 80 percent of election-related violence in the same year (Trillanes 2008). In a confidential report it was said that these armed groups were controlled amongst others by at least three former and incumbent congressmen, four provincial governors and 15 mayors (Philippine Daily Inquirer 19.3.2001: 1). In 2004 the police reported at least 78 private armed groups and in early 2010 the number stood at 132 (Philippine Daily Inquirer 5.5.2004: 20; Echeverria 2010, see also Verzosa 2010).

The size of private armed forces goes from the single gun-for-hire, or a lone local ruffian over a small number of outright illegal or formally legal forces up to veritable armies encompassing several hundred heavily armed men, the latter clearly being the exception.

3.4 Vertical violence against challengers of the dominant order

In the Philippines the ruling order is challenged by a number of groups, from the various armed revolutionary movements over left-leaning union activists to farmers’ rights movements that for more than two decades try to push through land-reform, anti-logging movements and local organizations campaigning against mining business, journalists who try to investigate and publicize the illegal activities of politicians and businessmen to judges and lawyers, who cannot be bought. All of them are threatened by the violence emanating from the political elite, even though only one group, the armed revolutionary movements, employs violence itself. The violence against the latter is generally not so much the product of local private armed groups or hired killers, but emanates from the Armed Forces and its auxiliaries (CAFGUs), which are used in this openly political context, where any resistance against the ruling order is defined as insurgency and dealt with in the context of a holistic, violence based counterinsurgency strategy. Other types of killings are more often associated with private armed goons, death squads or contract killers, that are said to be answerable to local politicians.

As hardly any case of extrajudicial execution or assassinations is solved, much of the violence is shrouded in mystery. However, the last few years have brought forward a significant number of studies, amongst them one scathing report of Philipp Alston, the Special Rapporteur on extrajudicial, summary or arbitrary executions of the United Nations, (2008), who concluded that

“there have been many extrajudicial executions of leftist activists in the Philippines. These killings have eliminated civil society leaders, including human rights defenders, trade unionists and land reform advocates, intimidated a vast number of civil society actors, and narrowed the country’s political discourse” (Alston 2008: 2).

According to Karapatan, a left leaning human rights organization, from January 2001 to March 2010 more than 1,000 persons, most of them political activists, were victimized in

the context of extrajudicial killings and summary or arbitrary executions. In the same timespan more than 200 people disappeared. In both cases the largest number of victims are found in the Central Luzon and Southern Tagalog regions, both on the Island of Luzon (Karapatan 2009: 1f; see also Karapatan 2010). Even though Karapatan probably bloats the numbers, the gist of the message is beyond doubt.

The dramatic situation with respect to this type of vertical, repressive violence is corroborated by the high number of journalists killed during the last decade. According to the data provided by the National Union of Journalists from 1986 to May 2010 137 journalists were killed (<http://www.nujp.org/>), most of them (100) under the Arroyo-Macapagal presidency since 2001. In the same time span 15 judges and 26 lawyers have been killed according to the National Union of People's Lawyers (NUPL 2010). As if to test the resolve of the newly inaugurated president Aquino, in the first three weeks of his administration from July 1 to 23 2010, it is said that six activists were killed and one local journalist severely wounded (ANN 2010).

While most of the killings of political activists probably is the handiwork of the armed forces, politicians, judges and lawyers are said to become mostly victims because of their current work, which almost always focuses on illegal activities of local politicians. Accordingly it stands to reason that the assassinations are carried out by contract-killers. Sometimes even members of the police might step in to lend a helping hand, as probably in the case of the murder of the journalist Salvador Dacer in 2000. For ordering this killing the then head of the PNP and the Presidential Anti-Organized Crime Task Force under President Estrada and later Senator, Panfilo "Ping" Lacson, was officially charged in January 2010. According to a sworn statement he had ordered a former police officer to kill Dacer and a former Chief Superintendent of the PNP (Requejo 2010). However, a few days before the arrest warrant was issued Senator Lacson fled the country to evade arrest (The Philippine Star 3.2.2010: p. 1+4). At other times he had already been connected to drug-trading, kidnapping for ransom and the ordering of extrajudicial executions.¹⁵

3.5 The strong patron as a role model

As could be seen, violence is a crucial ingredient of political rule in the Philippines. And even though the vertical violence against leftists, social activists and human rights defenders resembles the violent strategies of many authoritarian states, in the Philippines this latter vertical violence has to be seen in the context of the corresponding type of horizontal violence, which rages mostly between segments of the elite from the lowest to the highest levels. Even though quantitative data does not exist, it can be argued that the actual level of vertical violence corresponds to the horizontal one. Both types of violence

¹⁵ See for example the sworn affidavit of Danny Devnani, who later was ambushed, but survived, printed in: Philippine Star, 8.9.2003.

fit the model of a mafia-type polity. Whereas the first, similar to the clan-wars in the Mafia, are about territorial political and economic control against competitors, that belong to the same ruling class, the second type of violence is directed against competitors who question or put into doubt the type of rule itself. Both strategies deny entry into the ranks of the elite to persons or groups that do not follow the dominant pattern of political domination based partially on autonomous capacities at violent coercion. Similar to the Mafia, the perpetual threat of inter-family violence functions as a gatekeeper, preventing reform-oriented groups to enter the arena in the first place. In a Mafia-environment, alternative modes of governance are disabled if necessary by the superior assertiveness of an “outlaw-regime” undergirded by family-controlled violence.

This is especially so, as long as this type of governance is compatible with the dominant local cultural codes of leadership. The readiness to use violence for furthering private interests and upholding the status quo does not worsen the image of the powerholder, but quite to the contrary strengthens it. Even though for example Filipino politicians will deny any connections to specific crimes, they do not shy away of portraying themselves as strongmen, who know how to use violence. Long-time mayor of Davao-City and presidential security adviser Rodrigo Duterte, consciously displays the image of a strongman, who is not beyond violence. Even though he consistently denies being the invisible hand behind the death squad to which several hundred killings of criminal suspects have been attributed,¹⁶ he openly states that he hates criminals and threatens them with death. Luis Chavit Singson, who controls Ilocos Sur politics since 1971, openly states that:

“If someone is a bad person, he should be killed. Killing a criminal is not a sin. What is wrong is if you kill just anybody.” (Singson cited in Torres 2003: 47).

Similar, the above mentioned ex-national Police chief Panfilo Lacson actually was elected senator on the basis of his image as a “Dirty Harry”-style policeman. Despite numerous long-standing accusations, he came in 10th in the Senatorial elections of 2001 and regained his mandate in 2007 with the third-highest number of votes nationwide. The terms *Mafioso* and the Filipino real man (*magaling na lalaki*) refer to a rather similar role: “to the actions and sentiments of incumbents of distinct positions of [...] power involving the private use of violence” (Blok 1969: 104).

16 In 2008 according to reports 269 persons are said to have been killed by the Davao Death Squad (www.preda.org/main/archives/research/digest/digest147.html). Human rights Watch gives significantly lower numbers, however, these still stand at 124 for the year 2008 and 814 for the time from mid 1998 to February 2009 (HRW 2009: 18-19).

4. Peace-pacts as a representation of the right to self-help in the political sphere

“We are optimistic that this peace pact [...] will ensure order in the electoral exercise in Masbate even beyond this year’s elections” (PNP Chief Superintendent Leonardo Espina cited in *Inquirer.net* 2010).

Like in other democracies, Filipino politicians have no right to use violence in the context of elections, neither are they authorized to falsify election results or buy votes. Despite these existing regulations, it is increasingly common that competing candidates come together, accompanied by representatives from the police, the armed forces, the church and the Commission on Elections (Comelec) in the context of elaborate ritual, to sign a covenant in which they solemnly promise to abstain from exactly these practices, which are already illegal according to state law.

Early documented cases of such a “peace pacts” relate to the elections of 1953 and 1961, when the leading presidential candidates signed a pact, according to which they would actively help “bring about clean, free and orderly elections (Philippines Free Press 4.11.1961, 7). In 1961 the contenders for the position of Cavite Congressman Justiniano Montano and Fernando Campos met with the Philippine Constabulary (PC) commander of Cavite for a similar objective. (Philippines Free Press 4.11.1961: 6+7). Even though both sides agreed to surrender the firearms in the hands of their followers, both camps eventually deployed hundreds of partisan armed personnel on election day. (Sidel 1994: 138).

A few years later in Cavite the elections of 1965 resulted in a fierce gun battle between the forces of the liberal party candidates from the 1st and 2nd district, which left 7 people dead and several wounded. In the aftermath of the shoot-out the two main protagonists were supposed to meet in a peace conference, but only one side appeared. (Philippines Free Press 30.10.1965: 90). Eventually nothing came out of this effort at disarmament initiated by the Comelec. Both sides maintained their several hundred armed followers each. In the elections of 1969 even the president intervened in the province of Ilocos Norte, and got the opponents to stop the killing, but “the moment the President’s back was turned, violence erupted anew” (Philippines Free Press 22.11.1969: 61).

The policy of signing peace pacts in order to forestall violence continued in all elections after the Philippines returned to democracy in 1986. At times it was a reaction to ongoing violence, as in the 1988 elections in Pampanga, where concerned citizens, the Comelec and the Armed Forces united in bringing about a pact between political rivals, after two mayoralty candidates had been killed within a few days (Manila Standard 17.12.1987: 15). In other cases peace pacts were signed as a preventive measure in regions renowned for high levels of election violence. Over time the numbers of pacts and participating politicians rose significantly. In 1995 the province of Pampanga already witnessed the signing of a peace pact in which about 300 of the total number of slightly more than 1,000 candidates running for office in the province participated (Manila Standard 22.4.1995: 4). In 2004 the government tried to solicitate peace pacts in at least “500 areas tagged as hot spots to prevent further bloodshed” (Philippine Daily Inquirer

5.5.2005: 1), and the 2007 and 2010 elections likewise brought forward a flurry of peace pacts on the local as well as the national level.

Even though peace pacts have become an almost universal feature of Philippine politics in election years, there has been no decline in election violence. This points to the possibility that peace pacts seem quite often to have been signed without the intention of honouring them – a strong indication that such semi-traditional strategies of countering violence have severe limitations.

These peace pacts are of interest in the context of an analysis of Philippine politics as a Mafia style endeavour, because of their paradoxical message: They actually confirm the political elite's right to decide autonomously on the use of violence in the context of political competition. It is exactly in the course of such peace pacts, that the claims of the participating politicians or political families are affirmed. A policy relying on peace pacts to forestall political violence illustrates that the core personnel of the political system, the mainstream-politicians themselves, do not submit to the laws of the state, but reserve to themselves the right to either voluntarily sign or turn down a commitment to the formal rules of the game which prohibit violence, harassment and vote-rigging. By signing or refusing to sign such a pact, which excludes illegal means of gaining an advantage in an election, the fundamental autonomy of the actors to decide on this question is symbolically confirmed, insofar as an actor can only wilfully forego illegal means and strategies, if he is endowed with the legitimacy to employ them in the first place. The peace pacts are a confirmation of the primacy of informal law before state-law. In the ceremonies themselves as well as in the execution of the peace pacts, the state is in a weak, subordinate position. In the ceremony, his representatives "witness" the signing of the pact by the semi-sovereign competing politicians, and treaty-abidance does not rest on the enforcement capabilities of the state, but on the voluntary acknowledgement of the competing parties, who, with their signature do not subject themselves to the rule of law, but to a code of honour at best.

5. Politicians and illicit business ventures – the example of Jueteng

"Our nation has been racked by scandals of corruption and obscene profligacy of officials in high places which have shaken its very foundation." (Sandiganbayan – Philippine Court of Appeals: 2007).

On 10 May 2010 Lilia "Baby" Pineda, three-term mayor of Lubao in the province of Pampanga won the competition for the governorship of this province with 66 percent of the votes; her running mate secured the position of vice-governor with 60 percent. The second congressional district was won by Pineda's close ally and kumadre (godmother) of her only son, former President Gloria Macapagal-Arroyo. Pineda's son Dennis, her successor in the office of mayor of Lubao and president of the provincial mayors' league had already declared in June 2009 that "there is no need for President Arroyo to campaign. We will give her an overwhelming mandate if she decides to seek a congressional seat" (Philippine Star 2009). With this assurance nothing could go wrong

for Gloria Macapagal-Arroyo, who knew, that the Pinedas helped, wherever they could, as they had done before in the elections of 2004, when Lilia's husband Rodolfo "Bong" Pineda is said to have given at least Three Hundred Million Pesos to support President Gloria Macapagal Arroyo's success in the elections. He also said that he plays a vital role in the elections" (Mendoza 2005: 2). These were the very elections which are said to have been won by President Arroyo through large-scale fraud. "Bong" Pineda, is widely known as one of the most powerful *Jueteng* lords, or in the words of his wife's predecessor as governor, as the "*Jueteng* Vatican" (Governor Panlilio 2008 cited in: GMANews.tv 2008).

Jueteng is a most popular but illegal numbers game, where the gambler selects two numbers from 1 through 37. Then winning numbers are determined by drawing a pair of numbers from two sets of numbered balls. Even though there are no limits on maximum bets, the vast majority of bets are small scale, well below 1 US\$. However, as drawings are up to three times a day, for the poorer segments of the population, *Jueteng* can result in financial ruin. Despite being illegal, it is one of the crucial legs of political and public finance beyond the state purse. The *Jueteng*-operators not seldom substitute for the "departments of social welfare and of public works in many towns and provinces, considering the amount of money they pour into community projects such as artesian wells, basketball courts, and roads, as well as the doleouts they give to almost anyone who approaches them for financial help. This then gives *jueteng* bosses a deep well of goodwill into which the politicians they deem worthy of their time and attention (among other things) can also dip and use to help propel themselves into public office" (Orejas 2007). So *Jueteng* can be analyzed *pars pro toto* as one crucial criminal denominator of politics and governance.

5.1 *Jueteng* as a criminal denominator of politics and governance

Pineda is said to control this game in the provinces of Pampanga, Pangasinan, Cavite and Bataan on the island of Luzon (Coronel 2000). His father is said to have operated a Spanish card game, called Monte and Pineda himself seems to have started as an overseer of the Monte-operations of a Pampanga Congressman in the late 1960s and 1970s. Despite being widely known as a gambling lord, Pineda enjoys a perfect patronal image in his home-base. Bong Pineda "was able to build a reputation for legendary generosity. [...] On Christmas Day, the Pineda mansion is opened for gift-giving, with poor people lining up by the thousands to avail themselves of packages of food." Lilia Pineda is variously called "mother of perpetual help", "Nanay Baby" (mother baby), who helped "hundreds of people ill with cancer or with psychological problems, and also provided shelter for many abused women and children" (Orejas 2007).

Already the Spanish grappled with the problem of games of chance, on the one hand aiming at their eradication and on the other profiting from their returns. The highest profit for the local politicians and administrators could be gained if the games were illegal, because then it was not the state that profited (via a gambling tax for example), but the individual politician or policeman, who provided protection for the business.

Consequently *Jueteng* is kept illegal and local elites can profit on a private basis. As a Congressman criticized in 2005:

“We all know since time immemorial that there are three players in the game of *jueteng*, those operating it, local government unit [LGU; P.K.] and the police. Some say that if the LGU and the police will only cooperate with each other, it is easy to stop the illegal numbers game.”¹⁷

At the same time, to soothe the Catholic conscience, there has been an ongoing debate for decades on the vicissitudes of the vice and the need for a comprehensive struggle against it.

However, as already hinted at, *Jueteng* profits are used not only for private gain by politicians, but likewise constitute one more or less crucial segment of “public” finance and thereby bolster the patronage structure of politics and crime. *Jueteng* money is used to “finance local social safety nets, maintain local media as retainers, and keep local clergy in tow.”¹⁸ A former president of the League of Municipalities of the Philippines estimated that about 80 percent of local politicians elected, won their elections “primarily or largely with the help of *jueteng* money” (cited in: Go 2003a: 111). Accusations of either profiting from *Jueteng* or actively running *Jueteng* rackets were brought by the police and others against provincial governors, municipal mayors, *barangay* captains, but also police officers among others (see for example Coronel 2000, Conde 2003, Fabella 2006).

In the late 1990s it is said, that in one province, Ilocos Sur, the bribery rates were “P1 million for the regional PNP director; P500,000 for the provincial police chief; P150,000 for the local congressman; and P7,500 to P30,000 for the municipal police chief, depending on the size of the town” (Coronel 2000).¹⁹ For Luzon it was estimated at a gross profit of nearly 1 billion US\$ of which 180 million US\$ were said to be used to bribe the police and politicians (McCoy 2009, 226).

Whereas traditionally *Jueteng*-operators and politicians were in a symbiotic relationship, the past decade brought reports that rumored *Jueteng*-operators venture into politics or finance the campaigns of members of the family. Miriam Go, paraphrasing an interview with a *Jueteng* operator who succeeded in becoming a politician, points out that as *Jueteng*-operator he could not only depend on the absolute loyalty of all those people working for his *Jueteng* business, but could also fall back on the aid of the local police, military and the local clergy, as all of them profited from various types of kickbacks (Go 2003a: 100).

17 Rep. Amado Espino Jr. in Congress 2005 cited in: the Official Government Portal of the Republic of the Philippines 13.6.2005.

18 Fabella 2007: 109.

19 For more data on the sharing-rates of *jueteng* profits see for example PCIJ/IPD 1995, Tan 2003. The police director’s 1 Million US\$ were equivalent to about 26,000 US\$, the municipal police chief’s share would be between 200 and 800 US\$.

The police are in a paradoxical situation with respect to *Jueteng*. Whereas in official political rhetoric *Jueteng* is demonized and its eradication is said to be a top priority, on a practical basis it provides significant and indispensable funds to politicians and police alike, without which neither can do well: “*jueteng* bribe money, [...] also goes to town mayors, supplements the mayor’s assistance fund-for the poor person’s burial, for the construction of a basketball court, for a family’s unpaid electricity bill. In the same manner [...] *jueteng* bribe money augments a police station’s “MOOE”, or Maintenance and Other Operation Expenses.²⁰ Additionally local police at the grassroots-level are also regularly bribed with small amounts of money or free “night-outs” (PCIJ/IPD 1995).²¹ *Jueteng* also provides a significant number of jobs for the rural and especially the urban poor. It has been estimated, that in each municipality there are about 1,000 collectors, making their rounds in the neighborhoods, taking the bets and disbursing the gains. In a middle sized province with 20 municipalities this means that there are at least 20,000 people employed in this industry (Tan 2003: 65). On a nation-wide level the *Jueteng*-industry is said to employ about 400,000 workers (McCoy 2009: 226). All those people together with their family-members will vote for whomever the *Jueteng* operator might decide to support. Additionally they function like a free campaign aid for the respective politician (PCIJ/IPD 1995).

Jueteng is especially important, as either the direct profits of the operator or the kickbacks received by local politicians, police commanders and others enable these to build up and uphold their patronage networks, which are essential in the quest for power and profit. *Jueteng* lords and local politicians who can access *Jueteng* funds set aside a certain amount of money, which they then use to dispense charity and social welfare to the needy, guaranteeing that all of them become and remain bound in so-called *utang na loob* relationships. (Go 2003a). These debts of gratitude (*utang na loob*) create and stabilize vertical bonds between superiors and inferiors, the first providing commodities with a specific financial value, which are cognitively categorized as gifts or favors which need to be returned. Whereas in the majority of exchanges the superior provides gifts of concrete monetary value, the inferior reciprocates with returns which cannot easily be measured in this currency. Culturally and psychologically the relation established by the first “gift” indebts him perpetually, with only slight chances of ever clearing his debt. The very vagueness of repayment translates into moral obligation, which time and again has to be symbolically reconfirmed by the debtor through pledges of loyalty (Mayer 1980: 56-58). One such pledge may be the willingness to vote for any politician the superior partner of the relationship proposes. Therefore, through the provision of a certain amount of money to a number of clients, the *Jueteng* lord then can sell their votes to the highest bidder in future elections and politicians can create a stable pool of votes for themselves

20 Tan 2003: 64; see also PCIJ/IPD 1995.

21 The consequence of this double-bind is a practice wherein police raids of *Jueteng* operations are stage-managed in cooperation with both local politicians and *Jueteng*-operators (Tan 2003; Go 2003).

or family-members. As the language is one of gift-giving, the obligation is a moral one, and a supreme one for that. Exactly for this reason *utang na loob* causes a de-moralization of the individual, because by the overarching need to fulfil his obligation he “overlooks moral principles [...]. One who is beholden to another person will do anything to please him, thinking that by doing so, he is able to repay the debt. One condones what the other person does and will never censure him for wrongdoing” (Quito 1994: 60).

It is no coincidence, that a large number of local officials or their relatives are said to be active in the *jueteng* business. *Jueteng* business is not only an economic lifeline, but also a cultural one, because it enables those very politicians to respond as ideal patrons to their clients’ demands and thereby stabilize the social order which puts them on top. The clever *jueteng* lord and the good community leader share the same attributes in the eyes of the local populace. The community leader like

“the patron who operates or tolerates *jueteng* is always there, ready with cash to be given to anyone who needs it. [...] When asked to characterize a good leader, community members [...] pictured a person who is dependable, helpful, generous, and approachable. This is exactly the same description they gave of the patron and the *Jueteng* lord. A leader for them is someone with resources who can immediately respond to their daily needs. It does not matter if that leader is diligent, has integrity, or adheres to a long-term developmental framework that will eventually benefit the community. It also did not matter to those asked that the source of funds used to provide for community needs is illegal. What was important to them was that an influential and worthy person was taking good care of them and their community. Thus, the culture of dependence that *jueteng* fosters in communities is something that the patron will try forever to maintain.” (Gregorio-Medel, Angelita, reprinted in: Nery (ed.). 2003: 109).

It is this dual position on both sides of the legal-illegal divide and the social and cultural rootedness of the practices themselves, that makes Philippine politics similar to traditional Mafia-activities in Southern Italy.

Mostly these interactions function smoothly and are invisible to the public, especially so, because intra-elite competition with respect to *Jueteng* is not so much characterized by violent clashes, but by mediation, or as Fabella points out “(t)urf disputes and takeovers are more often resolved at the level of the padrino” (Fabella 2007: 109). However, the role of vertical violence is less clear. It might well be that gambling debts are a very serious issue and defaulting debtors are threatened with violence in order to enforce the rules of the game. One staff member of the Catholic Bishops Conference of the Philippines (CBCP) told the author in an interview that in gambling

“violence is part of the game. [...] So you will see a lot of disappearances. The police will say ‘Yes, it was a personal quarrel. He had been liquidated.’ You just see somebody dumped somewhere. No, this is because of gambling. [...] Another level of government sponsored violence - because of gambling. Gambling brings about violence in this country. [...] The nut of violence, although it is not reported as such, is the fruit of gambling. Because down the line, to the village level, the moment [...] you fail to pay even just 100 Pesos, you’re dead” (Interview Manila, 12 February 2010).

5.2 Jueteng as a multitiered racket

Another aspect that should not go unnoticed is the high degree of vertical integration of networks that go from the local grassroots level to the highest offices of state, in effect linking large numbers of political and state-actors on different levels of illicit business ventures.

Even though violence in connection to *Jueteng* is most certainly by and large a problem on the local level only, the networks reach to the highest levels of politics and the accompanying violence is at least condoned by all politicians and public officials on all levels of politics. Gloria Macapagal-Arroyo, President of the Philippines from 2001 to 2010 and currently a member of Congress, had her own *Jueteng* scandal in 2005 when her husband and son were accused of having taken protection-money from *Jueteng* operators; once more the police also seem to have profited. When pressure on the president became strong, her husband went abroad for an extended “holiday”. Even though a number of ledgers with the exact data on dates and sums of payments as well as a number of testimonies existed, the political investigations broke down and prosecutory investigations were never initiated, as after a few months two core witnesses retracted their testimony (McCoy 2009: 246). Lacson, it might be reminded, fled the country in February 2010, avoiding charges of ordering the murder of a journalist.

The most prominent *Jueteng* scandal happened in 2000 and led to the downfall of Arroyo’s predecessor as President, Joseph Estrada, who was eventually convicted of plunder in 2007.²² Estrada’s conviction (see: Sandigbanyan 2007) rested not only on taking a cut of illegal *Jueteng* profits, but on various other illegal activities (i.e. misappropriation of tobacco excise tax, commissions for ordering state institutions to purchase stocks in specific firms, etc.). For the sake of brevity we will only take a short look at Estrada’s *Jueteng*-connection, which exhibits everything it takes to compare it to organized crime: a complex and highly sophisticated horizontal and vertical organization designed to maximize profit in an illegal business venture and, in case, things go wrong, the will to use violence. The core players, however, are not “criminals” but politicians and public officials.

According to the main witness Ilocos Sur governor Luis Chavit Singson, he himself, the President and a businessman, who then worked as a gaming consultant of the Philippine Amusement and Gaming Corporation (Pagcor) together with Bong Pineda, *Jueteng*-lord of Pampanga and adjacent regions, decided on the kickbacks due to the president for the various regions of Luzon a few weeks after Estrada’s election in 1998. The money was to be delivered every 15th and at the end of the month. Most of the time, it was Governor Singson, who delivered the money in cash - about ten Million Pesos (more than 200,000 US\$) per month. Part of the money then went to those from whom

22 Both Arroyo and Estrada had already been linked to *Jueteng* in 1995 through the documents submitted and testimony given by then Philippine National Police Bataan superintendent Elnora Bernardino.

protection had to be bought, for example the police. As the court decision details, in November 1998 three million Pesos were “given to the Office of the Chief of the Philippine National Police (PNP), who initially refused to receive the money. After a meeting with the president, the Police chief changed his mind. However, he “expressed the need to coordinate with the Regional Commanders to apprehend *jueteng* operations for show only (*kunwari*)” (Sandigbanyan 2007).

The governor of Ilocos Sur, Chavit Singson, not only delivered the President’s kickbacks from Jueteng, but also the profits of other deals. For example in February 1999, when 20 million Pesos were allotted for the repair of the capitol of the province, the president received a kickback of 4 million. In the meantime during all these years, Singson was provided with money to dispense to various persons mentioned by the president.

The above two Presidential examples show that even though Jueteng protection rackets originate at the local level, some if not many, have further layers upwards to the highest levels of politics. They are highly organized integrated networks which include the operators, the politicians and the state security institutions. Boundaries between politics and crime not only blur, but are essentially fuzzy, the politician doubling as statesman and “mafia-godfather”. This pattern of mafia-style politics is nicely complemented by the way the racket’s cover was blown. This was neither the work of the police or the prosecution, as for example in Italy, but the result of a power struggle between Singson and Estrada in the course of which Singson feared for his life and decided for a “forward defence”.²³ His revelations brought him legal immunity, safeguarded his political position in his home province Ilocos Sur, which had been threatened by presidential action, and brought down the president.

Despite having been convicted, in the meantime Joseph Estrada has been back in politics as presidential candidate in the 2010 elections, after having been pardoned by his successor Gloria Macapagal-Arroyo. Estrada’s eldest son Jose Pimentel (Jinggoy) Ejercito Estrada was elected Senator in 2004 winning again in 2010. Another son, Joseph V. Ejercito, was mayor of San Juan City from 2001 to 2010, when he opted for a congressional seat in the 2010 elections, which he won unopposed. Joseph Estrada’s wife Guia Gomez took over as mayor of San Juan City with 82 percent of the votes and an ally won the contest for vice-mayor with 92 percent. Another family member, Jannah Ejercito scored highest for the city council of the second district of San Juan City. Gloria Macapagal-Arroyo and the wife of suspected Jueteng-lord Rodolfo Pineda, Lilia Pineda won in the 2010 elections. Gloria Macapagal-Arroyo will be accompanied to congress by other family members, her son Diosdado (Camarines Sur 2nd district) and her brother-in-

23 According to Singson the Presidential camp even offered him to kill a Pagcor consultant and Estrada confidant, if only Singson put the blame on the latter and not the President. One person according to Singson’s statement made clear that “they will take care of Atong Ang. Alfredo Lim gestured with his right fist thumb down. Gov. Singson understood this to mean that Atong Ang will be killed” (Sandigbanyan 2007).

law Ignacio Jr. (Negros Occidental 5th district). Her son Mikey Arroyo, who had held the position of congressman, now taken by his mother, garnered a congressional seat for the party list group *Ang Galing Pinoy*. Later, there were efforts to disqualify him, because he definitely is no member of the sector the party list group supposedly represents: tricycle drivers and security guards. Would Arroyo be disqualified, the second on the list could take his place: Dennis Pineda, the son of Bong and Lilia Pineda.

In Ilocos Sur the 2010 elections saw the return of Deputy National Security Advisor Luis Chavit Singson to the post of Governor. Vigan City Mayor Eva Marie Singson-Medina and Candon City Mayor Allen G. Singson continued on their jobs unopposed. Vigan being the provincial capital and Candon the center of the second district of this province. Further family members elected for office in the 2010 elections were Ronald Verzoa Singson for Congressman 1st district, Eric Gacula Singson Jr. for Congressman 2nd district, Jeremias Crisologo for provincial board member 1st district and Charmian W. Singson Zaragosa for provincial board member 2nd district.

The pattern exemplified with respect to *Jueteng* business is no aberration from an otherwise well working economic and political system, but illustrates the most fundamental character of the Philippine variant of capitalism, which has been termed “booty capitalism” by Hutchcroft, quite similar to Henner Hess’ description of the “Mafia as adventure capitalism” (Hess 2009: 165), both of which aim at “parasitic profits through particular political conditions” (Hess 2009: 167), or “rent seeking” where “access to the state machinery is the major avenue to capitalist accumulation” (Hutchcroft 1998: 19) and is not seldom supplemented with illegal practices. With respect to *jueteng* as with all other fields of legal or illegal business, there is little incentive for the oligarchy to press for change as the system is exactly in that condition which allows for a maximization of particularistic benefit.

6. Conclusion

In this report, I presented the Philippines as a criminalized polity. Many of the practices and attitudes described closely, resemble the Mafia’s – albeit not the very modern one, which seems to have largely withdrawn from the political realm and become, what one might call a set of “purely criminal enterprises”. In the old Mafia as in Philippine politics, governance and criminal activity regularly go together; in both cases state institutions are penetrated and transformed into resources for “non-state”, private governance. At the same time private organizations up to fairly comprehensive local “outlaw regimes” are built up for purposes of safeguarding elite domination and the social order which flows out of this paradigm, a local order which at the same time connects to deep-seated and widely shared cultural patterns of social organization and practice. And in both cases there are no moral restraints, which could prevent the criminalization of politics and governance. Whereas it can be said that Philippine politics is crime to a significant extent, the above presentation showed that Mafia crime for most of the time was politics. In both

cases the resultant regimes are hybrids, which cannot be adequately analyzed by employing one of the contending paradigms – the political or the criminal – only.

Initially in both Sicily and the Philippines private agents provided governance on the basis of local monopolies or near-monopolies of power and violence. In Sicily those agents had to transform themselves from representatives of a hegemonic social order into relatively highly organized and closed “secret societies” in order to survive in a state which they could not conquer, as the Italian state was much larger than the small regions controlled by the Mafia. As the Mafia eventually had to settle with some sorts of local monopolies of violence, which coalesced into some forms of regional oligopolies in the context of an overall hostile state, it came to be seen as a criminal organization.

To a certain extent the modern Philippine political elite set out from a similar starting point, locally controlling land and people via coercion based patron-client relations. However, they did not have to “go underground”, because of a rather strong and hostile state they could not capture. Quite to the contrary, as landlord politicians the elite members, step by step, captured the various levels of political control since the late Spanish colonial era. By taking over the state they made sure, that the state did not become fully functioning, because otherwise this very state could have broken their stranglehold on positions of power and wealth. Patronal stranglehold, Howard Stein writes, “requires the very gap which it assists the client in bridging. For surely the patron does not help his clients to change the system (or themselves) and thereby abolish the gap” (Stein 1984: 31). In Stein’s view patronage is similar to a protection racket insofar as it “requires the hostile universe it mediates” (Stein 1984: 33). Any significant improvement of state capacity would be a fundamental threat to the interests of the political class as its clients would gain a real alternative to the clientelist relationships, instrumental friendship or reciprocal but asymmetric *utang na loob* relations which today still provide their only entry-points to tangible and intangible resources. While the state might fail or under-perform significantly, this very failure or under-performance guarantees the continued multidimensional control of the elite.

With respect to legitimacy it is crucial to remember, that the traditional Mafia was not seen as criminal on the local level. The traditional leaders of the various mafia groups also did “not consider themselves to be bandits or outlaws. Indeed, they portrayed themselves as men who favored law and order, even showing formal deference to state authority” (Paoli 2003: 188). This self-evaluation was by and large consistent with local perceptions and the social status they enjoyed (Paoli 2003, Sabetti 2002, Fentress 2000). This still holds true for Philippine politics where politicians, who employ violence and resort to corruption and illegal business opportunities, actually fill a cultural role, which has been created by their forebears, kept alive and developed by them and which is expected by the local populace. The important aspect is not whether something is illegal or not, but whether the spoils are doled out to the clients and the clients accept the accompanying rules of the game. In this respect good politicians conform to the expectations of their clients and care for their constituents to a certain extent.

At first sight, this does not bode well for reform. As Raul Fabella states in his analysis of Philippine politics “[b]ad institutions persist because they are consistent with the

dominant group's drive for wealth and power" (Fabella 2006: 105). This report clearly underlines Fabella's conclusion. However it further posits that these institutions also persist, because those practices, which are employed to compensate for the institutional malfunction, are not only in the interest of the elite, but also consistent with the subordinate groups' cultural frame and *perceived* self-interest. Both sides uphold the ruling order, which includes private political violence substituting for the state as well as illegal business and rent-seeking, the profits of which are used for the selective particularistic satisfaction of clients' short-term interests. If there is hardly any top-down interest in comprehensive reform and significant bottom-up pressure cannot be expected as many of the crucial practices are by-products or deformations of widely shared and demanded behavioral patterns and normative positions: where should reform apply?

With Boege et al, it could be argued, that customary institutions should be strengthened as part of a holistic effort to decriminalize politics. Boege et al argue that kinship-based societal formations should not be viewed as inherently corrupt and nepotistic, but as specific social configurations which can provide social support networks, likewise

"community resilience and customary institutions [should be perceived; P.K.] as assets and sources of solutions that can be drawn upon in order to forge constructive relationships between communities and governments, and between customary and introduced political and social institutions" (Boege et al. 2008: 16).

This report sides more with Mehler, who in his critique points out that "the hybrid regime [...] will not be the kind of functional mix of 'modern' and 'customary' institutions [...] but rather 'more of the same'" (Mehler 2008: 63). Even though there always has to be some kind of enculturation of all kinds of political institutions, it would be naïve to imagine a (selective) return to "real" traditions and customs as a comprehensive solution to criminalized governance under modern conditions of stateness. As a large number of the social practices of criminalized governance successfully pose as or resemble customary practices, strengthening "custom" would most likely result in a further strengthening of private uses of violence in contexts of political competition and domination.

This report therefore argues for a decisive effort at state-strengthening in the Philippines, mostly aiming at insulating the state against political interference that seriously impairs the professional working of its agencies. The aim must be to influence the opportunity cost calculations of the political actors, by significantly raising the costs of illegal behavior. The head of the EU-Philippine Justice Support Programme (EPJUST),²⁴ Detlev Mehli, a senior public prosecutor with the German attorney general's office in Berlin, hit the nail right on the head, when he argued that the Philippine criminal justice system "isn't working. It needs to be thoroughly overhauled. Cases drag on for years, witnesses are killed, die or simply disappear. There has to be a reason why only 10 per

²⁴ EPJUST commenced in 2010 and aims at a fairly comprehensive analysis of the weaknesses of the law enforcement system of the Philippines, from the police to the courts.

cent of all murder cases are ever solved in this country” (Detlev Mehlis, cited in: Wilson 2010). Put simply, for politicians it pays to go illegal, because they control to a large extent the local law enforcement agencies and can either render them ineffective or co-opt them. This is based on inadequate law-making, on republican acts that, time and again, stress local political control. Most problematic is, that city and municipal mayors exercise operational supervision and control over the local PNP units, meaning, that they have “the power to direct, superintend, oversee and inspect the police units and forces” (Republican Act 6975 Sect 52b). Add to this the power to impose certain administrative disciplinary penalties on members of the local PNP, the power to choose the local police-chief out of a list of eligibles and to recommend the transfer, reassignment or detail of PNP members outside of their respective city or town residences and it becomes obvious that the local PNP depends on the goodwill of the local mayor. Additionally, mayors are empowered to build-up police auxiliary organizations, the Civilian Volunteer Organizations, provided that these are financed out of the local budget. They are likewise responsible for the assessment of the CVOs’ performance. Laws and regulations like these, while not inherently problematic, do, in the context of Philippine politics, quite often lend themselves to abuse and ought to be replaced.

Needed is a reform which denies politicians’ control over the state’s institutional structure for criminal purposes. Especially the Philippine police-officers and prosecutors have to be enabled to “say no” to and to initiate investigations against politicians as if the latter were “normal citizens”. This requires a fundamental rethinking with respect to the relationship between politics and law enforcement on the various political levels. The current setup is in crucial aspects a return to the pre-martial law regime, when “police chiefs and policemen were appointed by the elected municipal mayor” (Machado 1979: 297). The collective memory of an integrated police-force is still heavily informed by the negative experience of the Marcos years, when the police were used as a repressive mechanism. This, however, was not the result of its integration, but of the continued politicization, then, however, more in a top-down fashion compared to the decades before and after. Despite being integrated, the police were not insulated. Only by bringing both aspects together can the desired effects be achieved.

The aims of insulation, integration and professionalization additionally require a significant strengthening of the police with respect to manpower, salary, equipment, expertise and capabilities; a demand which also applies to the prosecution and the wider court system, all of which need a significant overhaul. All semi-regular forces, of which the CVOs are only the most prominent ones should likewise be either abolished or integrated into an integrated police-service with a strict organizational hierarchy. A similar logic applies to the CAFGU-units that are supposed to support the Armed Forces in their fight against the Communist and Muslim insurgents and the special CAFGU that quite often are employed by private firms. They have to be reduced numerically and integrated into the (reformed) police-force. With respect to both crime-control as well as counter-insurgency warfare, we need a reversal of the general policy-line that politicizes and delegates to the broader society central tasks of the state like the provision of public security. Time and again, analyzes of deficient state performance have led to strategies of “outsourcing” instead of strategies that aimed at a reform of the institutions deemed

insufficient.²⁵ Thereby local forces' capability at autonomous action was significantly strengthened – with all its advantages and disadvantages.

It is not to be expected that the political elite easily lends its hand for a reform that diminishes its political clout over the everyday working of the state administration and its patronal position over its clients. However, there are fault lines within the elite with respect to business and political interests and the new Aquino administration exhibits a certain dose of reformism. This administration has a significant amount of “business expertise” as for example the new Secretary of the Department of Tourism, Alberto Lim, who up to this year headed the influential Makati Business Club; or Cayetano Paderanga Jr., a former professor of Economics at the University of the Philippines, General Director of the National Economic and Development Authority (NEDA) under the former President Corazon Aquino and Executive Director for the Philippines with the Asian Development Bank. Paderanga was appointed NEDA Secretary. The new Secretary of the Department of Agrarian Reform, Virgilio de los Reyes is one of the founding members of an association of lawyers who focus on human rights and judicial reform. Mention should also be made of Florencio Abad, who in earlier decades, before becoming Congressman, was active as a trade unionist and Secretary of Agrarian reform. Abad is the newly appointed secretary of the Department of Budget Management. The new Secretary of the Department of Justice, Leila de Lima, who up to July 2010 headed the Commission on Human Rights, and her colleague Teresita Deles, the newly appointed presidential adviser on the peace process, are certainly good choices for anybody who heads for earnest reforms.²⁶

Beyond the reformers in the administration there is a vociferous civil society, which, however, mistrusts significant parts of the new administration as it deems them to be either “old faces” or neo-liberals. Even though there obviously are significant ideological differences between the administration's “neo-liberals” and Civil Society Organizations, the latter should realize, that with Lim or Caetano they are at least dealing with

25 Insufficient police performance led to the creation of various police auxiliaries and at times even the toleration or active support of vigilante organizations, deficits in the counter-insurgency led to the establishment of military auxiliaries and various vigilante organizations, significant problems in the judicial system led to the establishment of the Barangay Justice System (*Katarungang Pambarangay*). Even though most of these institutions are supposedly under the control of the state, they nevertheless work towards a strengthening of local level political executives' powers.

26 However, it should not be forgotten that both the Estrada and the Arroyo-governments started out as reform-governments with a large number of former civil society leaders joining the government. It is worthwhile to take a short look back at those forerunners of the current administration. Reid (2008) argues that “the Estrada and Arroyo administrations encouraged a process of ‘crossover’ of select NGO personnel into the state executive.” In both cases elite political actors made personal offers to key activists who had at times “played some role in their path to power. In keeping with the clientelist and semiclientelist model, there were strong notions of reciprocity and bargaining in negotiations over power sharing. [...] Ultimately, the crossover of personnel led to disillusion and failure. [...] The notion of crossover, therefore, ultimately realized few enduring changes. What occurred was a hegemonic process that helped generate consent to the power of two elite political regimes.” (Reid 2008: 35-36).

representatives of an economic perspective that aims at reform because current practices bring about suboptimal results.

However, and most importantly, reformists should rethink their focus on further democratization. Irrespective of political field, the general argument is for decentralization, consultation, enhanced participation and “empowerment” of civil society actors and the local level of politics, even though it stands to reason that Philippine politics is confusingly fragmented and overpoliticized. Adding further participants will not resolve the problems of a chaotic muddle, in which in the end traditional politicians are the only ones, who can command obedience and push things through – albeit in a patronal fashion. Decentralization, devolution, enhanced civil society participation and the like will not bring about the desired results as the state is subservient to the whims of politicians in its everyday dealings. The very best to be expected then are “reformist politicians” here and there. This, however, will not change the structural flaws of an over-politicized state.

Especially international donors and indigenous civil society should not only look at grass-roots empowerment and enhanced participation for civil society organizations. These are valid objectives, as they might add some democratic controls on the various levels of politics. However, they do not help in reducing the extraordinarily high politicization of the national administration. They only add further actors who try to tug the local and national administrators towards their favored direction of action.

The work of EPJUST is one effort which goes in the right direction, insofar as it focuses on providing some input and concrete suggestions for enhancing the capacity and effectiveness of the Philippine justice system with respect to investigation, prosecution and bringing to justice perpetrators of extralegal killings and enforced disappearances. However, the superordinate legal frame, in which the law enforcement authorities’ work has to be changed accordingly – this, however, is far beyond the mandate of EPJUST (www.epjust.org/mandate.html). It is here, where the local civil society and the international donor organizations can come in, giving support to a reconsideration of the legal frame which makes the PNP dependent on political support on the local level and reduces the role of para-state organizations in the provision of public security.

All of these measures will only have limited success as long as they are not integrated into a much broader effort at institutional reform, which includes significant changes in the incentive structure for the political and administrative elite on the various levels of government. These measures, however, should not aim at the disempowerment of the current political actors, as these are the very ones who would have to formulate and initiate them in the first place, but at a regularization and institutionalization of government and the strengthening of the rule of law. At least a number of those who are not engaging in “primitive” but “sophisticated accumulation” which does not rest on (coercive) rent-seeking are certainly open to such changes, as they promise to reduce costs (corruption) and enhance the developmental capacities of state and society and thereby prospects of growth and profit. Even though Civil Society and these political and economic elites follow fundamentally different paradigms they should be able to unite on the common aims of civilizing and institutionalizing politics and insulating

administration. Such reforms, even though implementable only in an incremental fashion will over time confront the local and national politics with changed incentives for political action. In a further step these new incentives and slowly changing rules of the game could then “trickle down” to the population and result in changed expectations through which slowly the cultural patterns which undergird the current patterns of criminalized behavior may change.

Needed is an indefinite extension of the gun-ban, which is currently enacted regularly for the months preceding elections. If such a ban is feasible in times of heightened political competition, there is no rational argument against it at other times.²⁷

Even more ambitious would be the abolishment of the large array of pork-barrel funds (Priority Assistance Fund) available to individual legislators, who are empowered to identify the projects which are to be supported by those funds.²⁸ This should be complemented with a strengthening of the Commission on Audit (COA), so that malfeasance and corruption do not go unpunished anymore.

The most ambitious and most complicated reforms would deal with the institutional incentives for the continued merging of extralegal and legal patterns of governance provided for by the political institutions themselves. While the advisability of constitutional reform may be criticized from a number of viewpoints, from a perspective focusing on the decriminalization of politics it could be essential to exchange the current single-member district plurality system of elections with a system of proportional representation. The latter holds the potential of uncoupling political office from local dominance and “enforces” the strengthening of political parties in the sense of durable and nation-wide machineries (institution-building). Add to this a threshold for representation and the fragmentation along a multitude of competing parties, which is initially to be expected, could at least be limited. Whereas currently there are no incentives for integrating one’s personal or familial interest into a larger whole and the national level elites have to bargain with a host of local powerholders for an exchange of votes for other gratifications, this would be reversed to a certain extent under a system of proportional representation.

27 The PNP is openly pushing for a total gun ban, however, new President Aquino holds a contrary opinion, ridiculing the proposal as “a law to control the behavior of the outlaws. By definition, the outlaw is beyond the law, not to live within the law, so I don’t (see) the logic of a law controlling the behavior of somebody who does not follow the law” (Aquino cited in Philippine Star 2010).

28 Current policy points in the opposite direction. For 2011 the Priority Development Assistance Fund for lawmakers was raised to P22.3 billion from P10.86 billion in 2010. To this must be added the Special Purpose Funds, which as lump-sum appropriation are highly vulnerable to misuse. During the last years of the Arroyo-administration these funds rose to more than half of the total budget for new appropriations (www.congress.gov.ph/download/cpbd/fnf_2008_01_spf.pdf). Debate on these funds is non-public and there are no minutes of the committee meetings which decide on the allocation (GMANews.TV 2006).

In addition, it seems necessary to provide for public financing of political parties. At the same time it is necessary to tightly restrict or abolish all other forms of financing, so office-holders would no longer need to plunder the public purse to recoup their outlays nor need they cater to the interests of private financial backers any longer.

In combination, the above mentioned measures should go a long way to reduce violence and criminal governance by politicians. However, all of these proposals go in one way or another against the interests of the elite, ruling on the local and national level. Several of these measures have been discussed for years, if not for decades. Additionally they go to a certain extent against the cultural patterns that favor personalism over institutionalism and demand particularistic favoritism from the ruling ones. They all need an intensive cooperation of reform-oriented politicians and business leaders, civil society organizations and international actors, who have to grapple with an interest-based status quo orientation of a significant number of the established elite and a traditionalist orientation on the side of the large mass of the population. With traditionalist and non- or superficial democratic orientations of a majority in both the elite and the broader population,²⁹ the fight for a way out of the impasse of criminalized patronal-coercive politics is certainly an uphill battle.

29 For detailed survey data on traditional and non-democratic attitudes in the Philippines compared to other Asian countries see the data of the Asian Barometer surveys as presented in a large number of studies www.asianbarometer.org/newenglish/publications/). For older data see the World Values Survey datasets on the Philippines (www.worldvaluessurvey.org/).

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